

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

The Prudential Insurance Co.
of America & Prudential Real Estate
Affiliates, Inc.,

Civil No. 08-6438 (JMR/SRN)

Plaintiffs,

v.

ORDER

The Metrowide Group, et al.,

Defendants.

William S. O'Hare, Snell & Wilmer, LLP, 600 Anton Blvd., Suite 1400, Costa Mesa, CA 92626 and Robert R. Weinstine and Tiffany Blofield, Winthrop & Weinstine, PA, 225 South 6th Street, Suite 3500, Minneapolis, MN 55402, for Plaintiffs.

Matthew Schaap, Severson, Sheldon, Dougherty & Molenda, PA, 7300 West 147 Street, Suite 600, Apple Valley, MN 55124, for Defendants William L. Jorgensen and Bruce A. Jorgensen.

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson. No objections to the Report and Recommendation were filed within the requisite time period. Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Dismiss [the] Counterclaim of William L. Jorgensen and Bruce A. Jorgensen [Doc. No. 34] is **GRANTED in part** and **DENIED in part** as follows:

1. To the extent the Counterclaim is asserted against Prudential, the Motion to Dismiss should be **GRANTED**;
2. To the extent the Counterclaim is asserted against PREA, the Motion to Dismiss should be **DENIED without prejudice**;

- A. The Jorgensen Defendants are given leave to amend their Counterclaim to address the deficiencies outlined in the Report and Recommendation within thirty (30) days; and
- B. PREA will not be prejudiced from bringing a motion to dismiss regarding the amended counterclaim.

Dated: August 10, 2009

s/James M. Rosenbaum
James M. Rosenbaum
United States District Judge